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NOTIFICATION

No. LJD. 9/75/22, the 12th. February, 1975. The following Act which received the assent of the President and published in the Gazette of India Extraordinary Part II Section I dt 13/12/74 is republished for general information.

"The Conservation of Foreign Exchange" and Prevention of Smuggling Activities Act, 1974.

K.N. Srivastava,
Under Secretary
to the Govt. of Mizoram,
Law and Judicial Department.

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES ACT 1974.

AN ACT

to provide for preventive detention in certain cases for the purposes of conservation and augmentation of foreign exchange and prevention of smuggling activities and for matters connected therewith.

WHEREAS violations of foreign exchange regulations and smuggling activities are having an increasingly deleterious effect national economy and thereby a serious adverse effect of the State;

AND WHEREAS having regard to the persons by whom and the manner in which such activities or violations are organised and carried on, and having regard to the fact that in certain areas which are highly vulnerable to smuggling, smuggling activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities and violations to provide for detention of persons concerned in any manner therewith;

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title extent and commencement.

1. (1) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

(2) It extends to the whole of India.

(3) It shall come into force on such date (being a date not later than the twentieth day of December, 1974), as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context other wise requires,—

(a) "appropriate Government" means, as respects a detention order made by the Central Government or by an officer of the Central Government or a person detained under such order, the Central Government,

and as respects a detention order made by a State Government or by an officer of a State Government or a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "foreigner" has the same meaning as in the Foreigners Act, 1946; 31 of 1946.

(d) "Indian customs water" has the same meaning as in clause (28) of section 2 of the Custom Act, 1962; 52 of 1962.

(e) "Smuggling" has the same meaning as in clause (39) of section 2 of the Customs Act, 1962, and all its grammatical variations and cognate expressions shall be construed accordingly; 52 of 1962.

(f) "State Government", in relation to a Union territory, means the Administrator thereof;

(g) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Power to make orders detaining certain persons

3. (1) The Central Government or the State Government or any Officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner), that, with a view to preventing him from acting in any manner pre-judicial to the conservation or augmentation of foreign exchange or with a view to preventing him from—

(i) smuggling goods, or

(ii) abetting the smuggling of goods, or

(iii) engaging in transporting or concealing or keeping smuggled goods, or

(iv) dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods, or

(v) harbouring persons engaged in smuggling goods or in abetting the smuggling of goods,

it is necessary so to do, make an order directing that such person be detained.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purposes of clause (5) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention.

Execution of detention orders.

4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973. 2 of 1974

Power to regulate place and conditions of detention.

5. Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions including conditions as to maintenance, interviews or communication with others, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify ; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State by order of the appropriate Government :

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. No detention order shall be invalid or inoperative merely by reason—

Detension orders not to be in valid or inoperative on certain grounds.

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or the officer making the order of detention, or

(b) that the place of detention of such person is outside the said limits.

Power in relation to absconding persons

7. If the appropriate Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government may—

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82,83,84 and 85 of the Code of Criminal Procedure 1973, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; 2 of 1974

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply there with and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance there with impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (I) shall be cognisable. 2 of 1974.

8. For the purposes of sub-clause (a) of clause (4), and sub-clause (c) of clause (7), of article 22 of the Constitution,—

(a) the Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 9, the appropriate Government shall, within five week from the date of detension of a person under a detention order make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of article 22 of the Constitution;

(c) the Advisiory Board to which a reference is made under clause (b) shall after Considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be demeed to be the opinion of the Board;

(e) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detension of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

Case in which and circumstances under which persons may be detained for longer than three months without obtaining opinion of Advisory Board.

9. (1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whome an order of detension is made under this Act at any time before the 31st. day of December, 1975 may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding one year from the date of his detention, where the order of detention has been made against such person with a view to priventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specifically empowered for the purposes of this section by that Government, is satisfied that such person—

(i) smuggles or is likely to smuggle goods into out of or through any area highly vulnerable to smuggling; or

(ii) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling; or

(iii) engages or is likely to engage in transporting or concealing or keeping smuggled goods in any area highly vulnerable to smuggling,

and makes a declaration to that effect within five weeks of the detention of such person.

Explanation.— In this sub-section, "area highly vulnerable to smuggling" means—

(i) the Indian customs waters;

(ii) the inland area fifty kilometres in width from the cost of India falling within the territories of the State of Gujarat, Karnataka, Kerala, Maharastra, Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondichery; and

(iii) such further or other inland area not exceeding one hundred kilometres in width from any coast or other border of India, as the Central Government may, having regard to the vulnerability of that area to smuggling, by notification in the Official Gazette, specify in this behalf.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely :—

(i) in clause (b), for the words "shall, within five weeks", the words "maym at any time prior to but in no case later than three months before the expiration of one year" shall be substituted;

(ii) in clause (c), for the words "from the date of detention of the person concerned", the words "from the date on which the reference is made to it" shall be substituted.

(3) The case of every person detained under a detention order to which the provisions of sub-section (1) apply shall, within a period of six months from the date of detention, be reviewed (unless in the meantime a reference has been made in respect thereof to an Ad-

visory Board constituted under clause (a) of section 8 read with sub-section (2) or such order has been revoket) by the appropriate Government in consultation with a person who is, or has been, or is qualified to be appointed, as a Judge of a High Court nominated in that behalf by that Government :

Provided that wbere the appropriate Government is a State Government, that Government shall also consult the Central Government in the matter.

Maximum period of detention.

10. The maximum period for whicb any person may be detained in pursuance of any detention order to which the provisions of section 9 do not apply and which has been confirmed under clause (f) of section 8 shall be one year from the date of detention and the maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 9 apply and which has been confirmed under clause (f) of section 8 read with sub-section (2) of section 9 shall be two years from the date of detention :

Provided that nothing contained in this section shall affect the power of the appropriate Government in either case to revoke or modify the detention order at any earlier time.

Revocation of detention orders.

11. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified— 10 of 1897.

(a) notwithstanding that the order has been made by an officer of a State Government by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.

Temporary release of persons detained.

12. (1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

Protection of action taken in good faith.

13. No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceedings shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.

Repeal.

11 of 1974.

14. The Maintence of Internal Security (Amendment) Ordinance, 1974, shall, on the commencement of this Act, stand repealed and accordingly the amendments made in the Maintenance of Internal Security Act, 1971. by the said Ordinance shall, on such commencement, cease to have effect.

26 of 1971.

No. CAD. 352/74/24, the 10th. February, 1975. In exercise of the powers conferred by the proviso to article 309 of the Constitution read with the Govt. of India, Ministry of Home Affairs Notification No. 14/11/71-HMT-(ii) dated the 21st. Jan., 1972 and all other powers enabling him in this behalf, the Administrator of Mizoram is pleased to make the following rules relating to the recruitment to the posts of Administratlve Officer (Non-gazetted), Government of Mizoram, namely :—

1. **Short title and comencement.** (1) These Rules may be called the Mizoram Administ a-tive Officers (Non-Gazetted) Recruitment Rules, 1975.

(2) They shall come into force on the date of their pub-lication in the Official Gazette.

2. **Application.** These Rules shall apply to the post specified in column 1 of the Schedule hereto annexed.

3. **Number of post. Classification and scale of pay** The number of the said posts, their classification and the scales of pay attached thereto shall be as specified in Columns 2 to 4 of the Schedule aforesaid.

4. **Method of rectt age limit and other qualification** The age limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 13 of the said Schedule.

Provided that the upper age limit prescribed for direct recruitment may be relaxed in the case of candidates be-longing to the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Gentral Govt. or Govt. of Mizoram from time to time.

5. **Disqualification** No person,

(a) who, has entered into or contracted a marriage with a person having a spouse living, OR

(b) who, having a spouse living has entered into or con-tracted ma riage with any person, shall be eligible for ap-pointment to the said post.

P ovided that the Adminisrrator may, if satisfied that such marriage is permissible under the personal law ap-plicable to such person and the other party to the marriage and there a e other grounds for so doing, exempt any per-son from the operation of this rule.

6. Training and Departmental examination — Every Government servant shall undergo such training or pass such departmental examination as may be prescribed from time to time.

7. Power to relax — Where the Administrator is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provision of these rules with respect to any class or category of persons,

8. Reservation other concessions. — Nothing in these rules shall effect reservation and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other categories of persons in accordance with the orders issued by the Central Govt. or Govt. of Mizoram from time to time in this regard.

9. Repeal and Saving — All Rules pertaining to these posts, framed by the Governor of Assam or by the Government of Assam and were in force in the erstwhile Mizo District and continued to be in existence in pursuance of Government of India, Ministry of Home Affairs Notification No. 14/21/71-HMT (ii) dated 21. 1. 72 are hereby repealed.

Provided that any order made or anything done or any action taken under the rules so repealed or under any general orders ancillary thereto, shall be made, done or taken under the corresponding provisions of these rules.

By Order,
F. Pahnuna
Secretary
to the Govt. of Mizoram.
General Anministration Deptt.

SCHEDULE

RECRUITMENT RULES FOR THE POST OF ADMINISTRATIVE OFFICERS (NON-GAZETTED) GOVERNMENT OF MIZORAM :

Name of Post.	No. of Posts.	Classification	Scale of Pay.	Whether Selection post or non selection Post.	Age for Direct Recruits	Educational and other qualifications required for direct recruits
1	2	3	4	5	6	7
Administrative Officer	75 post (or as sanctioned from time to time)	Class-III (Non-Gazetted)	Rs. 200-12-50-250-EB 12.50-275-15-350-EB -15-500/-	Not Applicable	30 yrs. and not below 18 yrs. (relaxable for Govt. servants) Age limit is relaxable by 5 yrs in case of candidates belonging to Scheduled/ Castes/Scheduled Tribes.	i) Graduates of a recognised University ii) Working knowledge of Mizo language of Middle School standard is desirable. It may be relaxed in case of candidates belonging to Chhimtuipui District.

Whether age and educational qualifications prescribed for direct recruits will apply in the case of Promotees.	Period of probation if any	Method of rectt whether by direct rectt. or by deputation/transfer & percentage of vacancies to be filled by various methods	In case of rectt. by promotion deputation/ transfer, grades from which promotion deputation transfer to be.	If a D.P.C. exists, what is its composition.	Circumstances in which U. P.S.C. is to be consulted in making rectt.
8	9	10	11	12	13
Not applicable	Two years	Direct. rectt. failing which transfer/deputation.	Transfer/=deputation officials=holding analogous posts in other Deptts. (Period of deputation ordinarily not exceeding three years)	The DPC should consist of concerned Secretary to the Govt., the Head of Deptt. and a representative of the Appointment Department.	As required under the U.P.S.C. (Exemption from consultation (Regulations 1958.

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